

Appl. No. 10/780,279

Amdt. dated March 15, 2006

Reply to Office Action of September 15, 2005

Atty. Ref. 89277.0023

Customer No. 26021

Remarks/Arguments

Reconsideration of this application is requested.

Extension of Time

A request for a three month extension of the period for response to the office action mailed on September 15, 2005 is enclosed with this amendment. The extended period for response expires on March 15, 2006.

Specification

Paragraph [0037] of the specification is amended to correct a typographical error. No new matter is added.

Claim Status

Claims 1-20 were presented. Claims 4, 7, 14 and 16-19 are amended.

Claim Rejections - 35 USC 112

The Action rejects claims 4 and 17 under 35 USC 112, second paragraph, and considers use of the word "it" indefinite. In response, claims 4 and 17 are amended to replace "it" with --the lower seat supporting member--.

Claim Rejections - 35 USC 102

Claims 1, 2, 5, 7-11, 14, 15, 18 and 20 are rejected under 35 USC 102(b) as anticipated by Tsunoda (US 4,475,622). In response, applicant respectfully traverses the rejections, and submits that claims 1, 14 and 20, as filed, distinguish over Tsunoda. For this reason, claims 1 and 20 are not amended. Claim 14, although believed to distinguish over Tsunoda for the same reasons as set forth for claims 1 and 20, has nevertheless been amended to highlight still further distinguishing features relative to Tsunoda.

Applicant's claims 1, 14 and 20 explicitly require an upper seat supporting member *and a lower seat supporting member*. Tsunoda does not disclose or suggest such a structure. The Action, at page 3, asserts that Tsunoda's right and left side covers 14 correspond to applicant's claimed lower seat supporting member. Applicant respectfully traverses this assertion. The only discussion or explanation of right and left side covers 14 is at column 3, lines 3-6 of Tsunoda:

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...The exhaust pipes 3 and the silencers 4 are positioned inwardly of right and left side covers 14 and a rear cowling 15 and are shaped and disposed so as not to interfere with the rear wheel 13 in a fully compressed state...

There is no disclosure or suggestion in Tsunoda that right and left side covers 14 function in any manner as a seat supporting member, as is required by applicant's claims 1, 14 and 20. To the contrary, the only structures in Tsunoda that appear to perform any type of seat support function are seat rails 12. Neither side covers 14 nor rear cowling 15 appear to have any form of attachment to seat rails 12 or any kind of seat support function. Thus, Tsunoda does not disclose a seat supporting member comprised of *upper and lower* seat supporting members.

Moreover, there is no disclosure or suggestion that Tsunoda's right and left side covers 14, which the Action asserts correspond to applicant's claimed lower seat supporting member, *cover any region above exhaust pipe 3*, as is also explicitly required by claims 1, 14 and 20. This is best seen in applicant's Fig. 9, where forward portion 91a of lower seat supporting member 91 extends over and covers the region above exhaust pipe 44. In Tsunoda, by contrast, side covers 14 (as their names suggest) are only on the sides of *and not above* exhaust pipe 3 (see Tsunoda, Fig. 2).

Since Tsunoda does not disclose each and every element of claims 1, 14 and 20, it cannot anticipate those claims or claims dependent thereon. The rejections of claims 1, 2, 5, 7-11, 14, 15, 18 and 20 should therefore be withdrawn.

In addition to these features, claim 14 is amended to include the following additional feature:

the upper seat supporting member and the lower seat supporting member are formed in a hollow shape defining a heat insulating space therebetween

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Dependent claim 7 is also amended to more clearly recite this feature. This configuration is perhaps most clearly illustrated in applicant's Fig. 9, where it can be seen that upper seat supporting member 92 and lower seat supporting member 91 are formed in a hollow shape and define a heat insulating space therebetween that prevents heat transmission from exhaust pipe 44 to the seat. Tsunoda clearly does not disclose or suggest such a structure. Thus, claim 14 and dependent claim 7 distinguish over Tsunoda for this additional reason.

Claim Rejections – 35 USC 103

Claims 12 and 13 are rejected under 35 USC 103(a) as obvious over Tsunoda in view of Hattori (US 4,696,366). Claims 6 and 19 are rejected as obvious over Tsunoda in view of Ikenoya (US 4,437,306).

The Action asserts that Hattori (US 4,696,366) shows an exhaust pipe cover formed by a coating of synthetic resin. The Action asserts that Ikenoya (US 4,437,306) shows a catalyst disposed in a portion of an exhaust system. However, neither Hattori nor Ikenoya remedy the deficiencies of Tsunoda discussed above with reference to claims 1, 14 and 20. Therefore, claims 6, 12, 13 and 19 are allowable for the same reasons as discussed with reference to claims 1, 14 and 20. The rejections under 35 USC 103 should be withdrawn.

Allowable Subject Matter

The indication of allowable subject matter in claims 3, 4, 16 and 17 is noted and appreciated. Since claim 1 is not amended, claims 3 and 4 have been kept in dependent form.

With respect to claims 16 and 17, applicant notes that they were intended to depend from claim 14, rather than from claim 2. In this regard, claims 16 and 17, when depending from claim 14 rather than from claim 2, still include all of the subject matter discussed in the "statement of reasons for the indication of allowable subject matter" at page 5, paragraph 9, of the Action. Accordingly, claims 16 and 17 are amended to include all features of independent claim 14

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(before the amendment to claim 14). Applicant therefore submits that claims 16 and 17 are now in allowable form.

Claims 18 and 19 were also intended to depend from claim 14, rather than from claim 2, and have been amended to correct this error.

Conclusion

This application is believed to be in condition for allowance. The Examiner is invited to telephone the undersigned to discuss any issues that remain after entry of this amendment. Any fees due with this response may be charged to our Deposit Account No. 50-1314.

Respectfully submitted,
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Date: March 15, 2006

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